

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 MARK KAPITI,

5 PLAINTIFF,

6 -against-

7 Index No.:

8 RAYMOND W. KELLY, in his official Capacity as COMMISSIONER of
9 NEW YORK CITY POLICE DEPARTMENT, PROPERTY CLERK, NEW YORK
10 CITY POLICE DEPARTMENT and THE CITY of NEW YORK,

11 DEFENDANTS.

12 -----X
13 THE CITY OF NEW YORK,

14 THIRD-PARTY PLAINTIFF,

15 -against-

16 AMERICAN HONDA FINANCE CORPORATION d/b/a
17 HONDA FINANCIAL SERVICES,

18 THIRD-PARTY DEFENDANT.

19 -----X

20 DATE: May 30, 2008

21 TIME: 11:10 a.m.

22 EXAMINATION BEFORE TRIAL of the Defendant,

23 AMERICAN HONDA FINANCE CORPORATION d/b/a HONDA FINANCIAL

24 SERVICES, by a Witness, TARA SCHOOLKRAFT, taken by the

25 Respective Parties, pursuant to a Court Order, held at the

office of MICHAEL A. CARDOZO ESQ., CORPORATION COUNSEL, 100

Church Street, New York, New York 10007, before a Notary

Public of the State of New York.

SCHOOLKRAFT

1 A. Yes, I did.

2 Q. Where is your signature on this document?

3 A. Tara L Miles.

4 Q. Next to where it is says "by"?

5 A. Correct.

6 Q. It indicates on this document that you were an
7 authorized agent of Honda Financial Services?

8 A. Correct.

9 Q. Prior to signing this particular document, had you
10 ever signed similar documents before?

11 A. Yes.

12 Q. How many times?

13 A. Hundreds.

14 Q. Of those hundreds of times, had you signed any of
15 these types of documents with other municipalities other than
16 the City of New York?

17 MR. ROSENBERG: Objection. It's not
18 relevant.

19 A. I don't remember.

20 Q. Did you read this document before you signed it?

21 A. Yes.

22 Q. Did you discuss with anybody whether you should
23 sign it?

24 A. No.

25 Q. Did you at some point speak with somebody at the

SCHOOLKRAFT

1 Property Clerk ever intended to commence such an action?

2 A. I do not know.

3 Q. You mentioned that you've seen hundreds, or you've
4 been involved in hundreds of these types of cases?

5 A. Yes.

6 Q. Over the years that you've been there and that Mr.
7 Shay has been there; correct?

8 A. Yes.

9 Q. In any of those cases that you can remember, are
10 you aware of whether the New York City Police Department
11 Property Clerk ever commenced a forfeiture action to obtain
12 legal title to the vehicle prior to Honda's signing the
13 Hold-Harmless Letter?

14 A. I'm not aware.

15 Q. In any of those hundreds of cases, are you aware as
16 to whether the New York City Police Department Property Clerk
17 ever intended to commence a forfeiture action to obtain title
18 to the subject vehicle prior to Honda's signing off on the
19 Hold-Harmless Letter?

20 MR. HAZAN: I object to the form.

21 A. I'm not aware.

22 Q. I appreciate you're not an attorney. As whatever
23 your title was at the time at Honda when you received a
24 Hold-Harmless Agreement like this from the New York City
25 Police Department, did you ever have occasions or someone on

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1 MR. KESSLER: Yes.

2 MR. HAZAN: Objection.

3 A. No, I have not seen this one before.

4 Q. Do you know in general what it is?

5 A. It's a notice for repossession of motor vehicle.

6 Q. In New York?

7 A. Correct.

8 Q. Do you know who generates this document?

9 A. This is regarded by the State of New York, and the
10 repossession agency has this document.

11 Q. So, the information in the large box, obviously not
12 the preprinted, but the large box towards the bottom of the
13 page is filled in by the repossession agency?

14 A. Correct.

15 Q. I'd like you to take a look at Mr. Kapiti's lease,
16 and look at the repossession notice as far as the description
17 of the car. I'd like you to compare the vehicle information
18 on the repossession notice and the lease?

19 A. I can already tell you that the VIN number is for a
20 Honda vehicle not an Acura vehicle. It's not a two-door red
21 MDX with a four-door.

22 Q. So, according to the VIN, and the make and model,
23 this is not the same vehicle; correct?

24 A. Correct.

25 Q. Getting back to the hundreds of cases. After May

SCHOOLKRAFT

1 or June, whenever your involvement in this case finished, did
2 you have further dealing with the New York City Police
3 Department regarding Hold-Harmless Agreements?

4 A. I don't remember.

5 Q. Whose decision is it to classify a case as a
6 repossession?

7 MR. HAZAN: Objection.

8 A. The company's.

9 Q. Focussing on Mr. Kapiti's case, you said that the
10 tow truck company, the agency that repossesses the car fills
11 out the repossession notice. They're not the ones that
12 determine whether it's going to be a repossession?

13 A. No.

14 Q. Who does?

15 A. American Honda Finance Corporation.

16 Q. Under what circumstances would Honda not classify
17 it as a repossession?

18 MR. HAZAN: Objection to form.

19 A. Death of a customer. A military person.

20 Q. Have you ever classified the return of a vehicle as
21 an early termination?

22 MR. HAZAN: Objection to form.

23 A. Early termination or a voluntary surrender.

24 Q. Is that a yes?

25 A. Yes.